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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/628,862

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Heinrich Lang

LMX-151

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EXAMINER

LEE, RICHARD J

ART UNIT

PAPER NUMBER

2621

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/628,862	Applicant(s) LANG ET AL.	
	Examiner Richard Lee	Art Unit 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>1/21/04; 3/5/04</u> . | 6) <input type="checkbox"/> Other: ____. |

1. It is to be noted that though the JP-56099835 reference has been supplied to the Office, it is however that the applicants have failed to cite this reference in a PTO-1449 as required. This seems to be an apparent oversight by the applicants. The Examiner has cited this reference in the attached PTO-892 to be made of record. No further action is required by the applicants.

2. Claims 1-13 objected to because of the following informalities:

At claim 1, line 6, "lest" should be changed to "least" for clarity.

Appropriate correction is required.

3. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For examples:

(1) claim 1, line 4, before "movement", "energized" should be properly inserted in order to provide proper antecedent basis for the same as specified at line 9;

(2) claim 1, line 7, after "cargo", "container" should be properly inserted in order to provide proper antecedent basis for the same as specified at lines 1-2;

(3) claim 1, line 8, the phrase "can be" as claimed shows no positive recitation and as such renders the claim indefinite. Suggestion: change "can be so" to "is";

(4) claim 4, line 1, the phrase "at least one of the foregoing claims" as claimed is unclear in that the specific claims have not been identified;

(5) claim 5, line 1, the phrase "at least one of the foregoing claims" as claimed is unclear in that the specific claims have not been identified. Further, claim 5 is considered indefinite since multiple dependent claim 5 depends from another multiple dependent claim (i.e., claim 4);

(6) claim 6 is considered indefinite in that claim 6 does not further limit claim 1;
(7) claim 9, line 2, "the tarpaulin structure" shows no clear antecedent basis;
(8) claim 11, line 2, "the tarpaulin container structure" shows no clear antecedent basis;
and

(9) claim 13 is indefinite since multiple dependent claim 13 depends from another multiple dependent claim (i.e., claim 12). Further, the phrase "or its equivalent" as claimed at claim 13, line 3 is considered indefinite since the metes and bounds cannot be established from this limitation.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 1-3, 6, 7, 10, and 12/10 are rejected under 35 U.S.C. 102(a) as being anticipated by Michimoto (JP-56099835).

Michimoto discloses a visual back-confirming device by television camera for car as shown in the Figure and the same camera assembly for a commercial vehicle with a cargo container structure (see Figure), wherein the camera assembly (see 1-6 of Figure) comprises a camera (1 of Figure); a movement apparatus (2-5 of Figure); wherein by means of the movement apparatus, the camera, at least partially, is so displace from inside to outside through an opening in the cargo structure and/or the opening in the cargo container structure can be so made open, that the camera, by means of the energized movement apparatus, is enable to capture a definite field of vision in a rear behind the commercial vehicle (see 2-6 of Figure and "Constitution"

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section of Abstract); the movement apparatus has a linear drive (i.e., camera support shaft is fitted to guide rail 6 to be able to slide back and forth, moving the camera back and forth linearly, see "Constitution" section of Abstract) and a rotary drive (i.e., gear 3 is engaged with a gear 4 fixed to the camera body, is provide to a rotary shaft of motor 2, see "Constitution" section of Abstract); the cargo container structure has a rigid rear side (see 10 of Figure); and the opening in the cargo container structure is a pivotal rear plate, which forms, with the rear side, an essentially closed surface and, in relation to this surface, is so moveable, that a definite field of view is made available in the rear area behind the commercial vehicle, and the movable rear plate is rotatable about an axis A, which is essentially normal to the longitudinal axis of the commercial vehicle (see 10, 11 of Figure).

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4/1, 4/2, 4/3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michimoto as applied to claims 1-3, 6, 7, 10, and 12/10 in the above paragraph (5), and further in view of Hiroyuki (JP-03266740).

Michimoto discloses substantially the same camera assembly for a commercial vehicle as above, but does not particularly that the movement apparatus is energized by means of a shifting of the commercial vehicle into a reverse gear as claimed in claims 4/1, 4/2, and 4/3. However, Hiroyuki discloses a rear view confirming camera loaded on the car as shown in the figure, and teaches the conventional activation of an opening portion 7 and camera 3 in the even the event

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the vehicle is moving backwards (i.e., shifting of the vehicle into a reverse gear). Therefore, it would have been obvious to one of ordinary skill in the art, having the Michimoto and Hiroyuki references in front of him/her and the general knowledge of the use of cameras within vehicles for rear vehicle viewings, would have had no difficulty in providing the energizing of a movement apparatus thereby moving and activating a camera in response to a shifting of a vehicle in a reverse gear as taught by Hiroyuki as part of the camera rear view system of Michimoto for the same well known viewing assistance to the driver when backing up a vehicle purposes as claimed.

8. Claims 8, 9, 11, and 12/11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michimoto as applied to claims 1-3, 6, 7, 10, and 12/10 in the above paragraph (5), and further in view of Lechner (5,375,903).

Michimoto discloses substantially the same camera assembly for a commercial vehicle as above, but does not particularly disclose that the cargo container structure is of tarpaulin frame construction, in which at least the rear side possesses a rear tarpaulin, the opening in the tarpaulin structure is a slot; the opening in the tarpaulin container structure is a pivotal rear plate, which, in the case of a rear wall tarpaulin which is release downward, forms with this tarpaulin and essentially closed surface, and the rear plate is so movable, that a defined field of view of the rear part of the commercial vehicle is made available, the movable rear plate is rotatable about an axis (A), which is essentially normal to the longitudinal axis of the commercial vehicle as claimed in claims 8, 9, 11, and 12/11. However, Lechner disclose a device for reducing the aerodynamic resistance of a commercial vehicle, and teaches the conventional use of rear tarpaulins 12 of Figures 1 and 3 for sealing the rear of a vehicle as well as the capability to turn

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the tarpaulin upward to unload the vehicle at the rear. It is hence considered obvious to use the tarpaulin frame construction in place of the lid 10 of Michimoto, as part of the rear pivotable assembly for the camera opening in the rear of the vehicle. Therefore, it would have been obvious to one of ordinary skill in the art, having the Michimoto and Lechner references in front of him/her and the general knowledge of rear vehicle camera systems, would have had no difficulty in providing the rear tarpaulin frame construction of a vehicle as taught by Lechner in place of the lid 10 of Michimoto to thereby provide a tarpaulin frame construction cargo container structure, in which at least the rear side possesses a rear tarpaulin, the opening in the tarpaulin structure is a slot, the opening in the tarpaulin container structure being a pivotal rear plate, which, in the case of a rear wall tarpaulin which is release downward, forms with this tarpaulin and essentially closed surface, and the rear plate is so movable, that a defined field of view of the rear part of the commercial vehicle is made available, and the movable rear plate is rotatable about an axis (A), which is essentially normal to the longitudinal axis of the commercial vehicle for the same well known use of a tarpaulin frame construction for the rear of a vehicle for ease loading and unloading purposes as claimed.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Pochmuller discloses a holding device and method for detecting a vehicle environment with at least one camera.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Lee whose telephone number is (571) 272-7333. The Examiner can normally be reached on Monday to Friday from 8:00 a.m. to 5:30 p.m, with alternate Fridays off.


RICHARD LEE
PRIMARY EXAMINER

Richard Lee/rl

12/22/06

